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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,010	12/04/2000	Thomas R. Jenkins	15916-277	6595

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07/23/2009

EXAMINER

NGUYEN, CAMTU TRAN

ART UNIT

PAPER NUMBER

3772

MAIL DATE

DELIVERY MODE

07/23/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/730,010

**Applicant(s)**

JENKINS ET AL.

**Examiner**

Camtu T. Nguyen

**Art Unit**

3772

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 14-17, 21-23, 25-30, 38, 39 and 45-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 48-51 is/are allowed.
- 6) ☒ Claim(s) 14, 15, 17, 21-23, 25, 27-29, 38, 39 and 45-47 is/are rejected.
- 7) ☒ Claim(s) 26 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

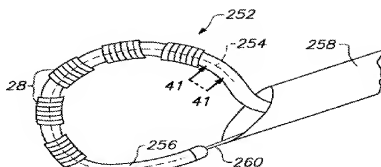
### ***Response to Amendment***

This Office Action is responding to applicant's amendment filed on 3-20-2009. Claims 14, 16, 21, and 25 have been amended. Claims 47-51 are newly added. Claims 14-17, 21-23, 25-30, 38-39, 45-51 are pending.

### ***Response to Arguments***

Under heading "B", applicant's preliminary comments concerning the rejection, associated with the Yang reference are noted, in particular, the rejection referenced Figures 40 & 41 while describing Figures 38 & 39. In response, the previous Office Action relied on the Figures 40 & 41 teaching applicant's invention, specifically, Figure 40 discloses an outer member (258), an elongate body (256) including a hinge portion/spline leg (254) located proximal of the distal end of the elongate body (256) while Figure 41 detailing the hinge portion/spline leg (254) relative to the elongate body (256). The previous Office Action did not rely on Figures 38 & 39.

Under headings "C", applicant remarked on the Yang's Figures 38 & 39. In response, the previous Office Action did not rely on Figures 38 & 39, namely the hinge portion. Figure 40 in the Yang reference illustrates a hinge portion located proximal of the distal portion end of the elongate body. See illustration below.



**FIG. 40**

Hinge portion located proximal of the distal end display greater bending capability than its immediate proximal & distal thereto, which forms an apex portion.

Under heading “D”, applicant again remarked against amended claim 16 deemed persuasive and thus the rejection associated with claim 16 has been withdrawn.

Under heading “E”, applicant again remarked on the Yang’s Figures 38 & 39. In response, the previous Office Action did not rely on Figures 38 & 39. Applicant remarked that the Yang et al reference does not include a hinge. In response, on the contrary, Figure 41 in the Yang et al illustrates the hinge in the form of spline leg (254). Applicant remarked that the Yang et al does not include hinge defining an apex of the loop. In response, apex is defined as tip or point. With that in mind, Figure 40 in the Yang et al reference illustrates the distal region of elongate body (256) forming a loop, specifically, the loop in Figure 40 is not a perfect circular loop but rather an oval-like loop, thus, rendering such loop indeed has an apex. See illustration above.

The claim, as amended, have been carefully considered but deemed not allowable in view of the following rejection.

***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the term "greater" in claim 45, 46, and 51 is not defined in the specification.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14, 15, 17, 21-23, 25, 27-29, 38, 39, and 45-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yang et al (U.S. Patent No. 6,332,880) in view of Swanson et al (U.S. Patent No. 6,076,012).

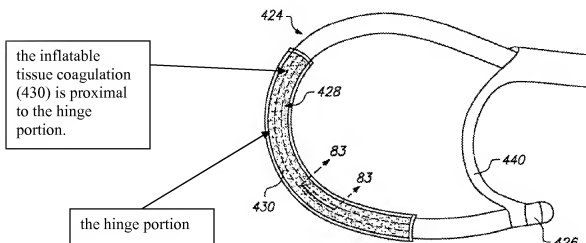
Yang et al discloses in Figure 40 a probe comprising an outer member/sheath (258), an elongate sleeve/body (256), the elongate sleeve/body (256) carried within the outer member/sheath (258), the distal end of the outer member/sheath (258) connected to the distal end of the elongate body (256). Figures 40 & 41 illustrate the elongate sleeve/body (256) comprising spline leg (254) located proximal of the elongate sleeve/body's (256) distal end, the elongate

body (256) comprising electrodes (28) but the Yang et al reference does not disclose an inflatable tissue coagulation body.

Swanson's Figure 84 illustrates the elongate body including an internal fluid lumen and an inflatable tissue coagulation body (430).

Therefore, it would have been obvious to one skilled in the art to modify the Yang et al's probe such that it would replace the Yang's electrodes (28) & substitute it with the Swanson's inflatable tissue coagulation body (430), taught by Swanson et al, on the Yang et al's elongate sleeve/body (256) for purposes of making long continuous lesions patterns.

With regards to claim 15 reciting the inflatable tissue coagulation body is proximal to the hinge portion, the Yang/Swanson, particularly Figure 82 in the Swanson illustrates the inflatable tissue coagulation body (430) is proximal to the hinge portion. See illustration below.



**FIG. 82**

With regards to claim 17 reciting the half-balloon, Figure 84 in the Swanson et al reference illustrates whole inflatable structure (430), of which comprises the “half-balloon” structure, thus, deemed to have the claimed “half-balloon” tissue coagulation structure.

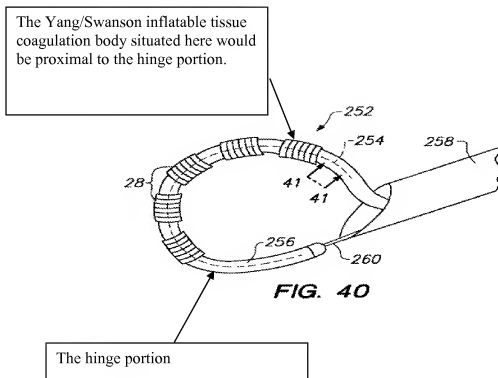
With regards to claim 22 reciting a control element, Figure 40 is an alternative embodiment of the distal region of the probe of Figure 1, hence, the Yang et al reference illustrates as steering mechanism (68).

With regards to claim 23, the loop in Figure 40 defines the flexibility of the spline leg (254), the loop of Figure 40 further illustrates the loop length is at least two times the loop height.

With regards to claim 25, the Yang reference discloses a flexible spline (254) acting as a hinge, thus, exhibits greater flexibility in the bending direction than the flexibility in the immediate proximal & distal thereto.

With regards to claim 45 and 46, the spline leg (254) of Yang et al, particularly is flattened at the bending/hinge portion of the spline leg (254), thus, acts as a hinge to have greater flexibility that its immediate proximal and/or distal portion thereof since it is flat.

With regards to claim 47 reciting the inflatable tissue coagulation body is proximal to the hinge portion, the Swanson et al's inflatable tissue coagulation body (430) when replacing an electrode (28), as illustrated below, would be proximal to the hinge portion. See illustration below.



#### *Allowable Subject Matter*

Claim 26 & 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the art of record when applied alone or in combination, neither renders obvious a probe, recited in claim 21 & 26 & 30, comprising all of the elements recited therein, including the inflatable tissue coagulation body comprises a heated structure and the inflatable tissue coagulation body is located one of distal to and proximal to the hinge portion and the at least one sensing element is located in the other distal to and proximal to the hinge portion.



Claim 16 and 48-51 are allowed.

The following is an examiner's statement of reasons for allowance: the art of record when applied alone or in combination, neither renders obvious a probe, recited in independent claim 16, comprising all of the elements recited therein, including the inflatable tissue coagulation body is located one of distal to and proximal to the hinge portion and the at least one sensing element is located in the other distal to and proximal to the hinge portion.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 571-272-4799. The examiner can normally be reached on (M-F) 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Camtu T. Nguyen/  
Examiner, Art Unit 3772

/Patricia Bianco/

Supervisory Patent Examiner, Art Unit 3772